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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35225

SAN BENITO RAILROAD LLC
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF UNION PACIFIC RAILROAD COMPANY

UNOPPOSED MOTION FOR POSTPONEMENT OF ORAL ARGUMENT

The Brotherhood of Maintenance of Way Employees Division/IBT and Brotherhood of Railroad Signalmen (“Union”) hereby moves the Surface Transportation Board (“Board”) for a postponement of the oral argument scheduled for this case due to the unavailability of their counsel Richard S. Edelman.

On March 27, 2009, Petitioner San Benito Railroad LLC (“San Benito”) filed its motion for dismissal of the Notice of Exemption it had filed; the Unions submitted an opposition on May 8, 2009; San Benito filed a reply on May 28, 2009; and the Unions filed a response on June 11, 2009. On November 3, 2009, the Board served a notice that oral argument would be heard in this matter on November 23, 2009. However, Mr. Edelman is scheduled for hip replacement surgery on November 10, 2009. Mr. Edelman has been advised that he is not likely to be able to come to work at least until December 10, 2009. No other attorney in Mr. Edelman’s firm, and no other attorney for the Unions, is familiar with the facts of this case or the legal arguments made by the Unions, so no attorney can be substituted for Mr. Edelman for oral argument in this matter. Mr. Edelman has been advised that he should be able to participate in oral argument beginning the week of December 14, 2009.

Counsel for the Unions has contacted counsel for San Benito who has graciously advised counsel for the Unions to represent that San Benito does not oppose this motion but notes that its

counsel is not available between December 21 and December 31, 2009 and January 6-8, 2010.

For the foregoing reasons, the Unions respectfully request that this motion be granted and that the oral argument in this case be postponed.

Respectfully submitted,

_____/s/_____
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